

117TH CONGRESS  
1ST SESSION

# H. R. 5393

To amend the Communications Act of 1934 to provide for mandatory cable carriage of low power television stations sharing facilities of certain full power commercial VHF stations, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 28, 2021

Mr. PAYNE introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To amend the Communications Act of 1934 to provide for mandatory cable carriage of low power television stations sharing facilities of certain full power commercial VHF stations, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*

2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Eliminating Local

5 News Deserts Act of 2021”.

1   **SEC. 2. CARRIAGE OF LOW POWER TELEVISION STATIONS**2                 **SHARING FACILITIES OF CERTAIN FULL**  
3                 **POWER COMMERCIAL VHF STATIONS.**4         (a) CARRIAGE RIGHTS.—Section 614(c) of the Com-  
5 munications Act of 1934 (47 U.S.C. 534(c)) is amended—6                 (1) by redesignating paragraph (2) as para-  
7 graph (3); and8                 (2) by inserting after paragraph (1) the fol-  
9 lowing:10                 **“(2) ADDITIONAL REQUIREMENTS FOR STA-**  
11                 **TIONS SHARING FACILITIES OF CERTAIN FULL**  
12                 **POWER COMMERCIAL VHF STATIONS.—**13                 “(A) IN GENERAL.—A cable operator of a  
14                 cable system shall carry on such system, on a  
15                 channel that is generally considered to be in the  
16                 primary broadcast tier, in addition to any quali-  
17                 fied low power station such operator is required  
18                 to carry under paragraph (1), any television  
19                 broadcast station—20                 “(i) that is a qualified low power sta-  
21                 tion under subparagraph (B) of subsection  
22                 (h)(2); and23                 “(ii) the full power commercial very  
24                 high frequency television broadcast station  
25                 described in subsection (h)(2)(B)(ii)(II)  
26                 with which such qualified low power sta-

1           tion shares facilities is in the same tele-  
2           vision market as such cable system.

3           “(B) REQUIREMENTS.—In the case of a  
4           qualified low power station that is carried under  
5           subparagraph (A), such qualified low power sta-  
6           tion shall have the same carriage rights as the  
7           full power commercial very high frequency tele-  
8           vision broadcast station described in subpara-  
9           graph (A)(ii) in the television market described  
10          in such subparagraph.

11          “(C) TIMING.—The requirements of sub-  
12          paragraph (A) shall apply, with respect to a tel-  
13          evision broadcast station, beginning on the date  
14          that is 90 days after the Commission makes a  
15          determination under subparagraph (B) of sub-  
16          section (h)(2) that such station is a qualified  
17          low power station under such subparagraph.”.

18          (b) QUALIFIED LOW POWER STATION DEFINED.—  
19          Section 614(h)(2) of the Communications Act of 1934 (47  
20          U.S.C. 534(h)(2)) is amended—

21           (1) by redesignating subparagraphs (A) through  
22           (F) as clauses (i) through (vi), respectively;  
23           (2) by striking “The term” and inserting the  
24          following:

25           “(A) IN GENERAL.—The term”;

1                             (3) by striking “Nothing in this paragraph”  
2                             and inserting the following:

3                             “(C) RULE OF CONSTRUCTION.—Nothing  
4                             in this paragraph”; and

5                             (4) by inserting after subparagraph (A) (as so  
6                             designated) the following:

7                             “(B) STATIONS SHARING FACILITIES OF  
8                             CERTAIN FULL POWER COMMERCIAL VHF STA-  
9                             TIONS.—

10                            “(i) IN GENERAL.—The term ‘quali-  
11                             fied low power station’ also includes any  
12                             television broadcast station for which there  
13                             is in effect a determination by the Com-  
14                             mission that such station is a qualified low  
15                             power station under this subparagraph.

16                            “(ii) REQUIREMENTS.—The Commis-  
17                             sion shall determine that a television  
18                             broadcast station is a qualified low power  
19                             station under this subparagraph if—

20                            “(I) such station conforms to the  
21                             rules established for low power tele-  
22                             vision stations contained in part 74 of  
23                             title 47, Code of Federal Regulations;

24                            “(II) such low power station  
25                             shares facilities with a licensee of a

1 full power commercial very high fre-  
2 quency television broadcast channel  
3 allocated to a State under section  
4 331(a);

5 “(III) such State has no exclu-  
6 sive, in-State broadcast television  
7 market within its boundaries, as de-  
8 termined by Nielsen Media Research  
9 or any successor entity;

10 “(IV) there are no ‘big 4’ full  
11 power commercial network affiliates  
12 (ABC, CBS, NBC, and FOX) that  
13 are licensed to, and principally oper-  
14 ate within, such State;

15 “(V) such low power station  
16 broadcasts not fewer than 14 hours of  
17 common local programming per week,  
18 not fewer than 7 hours of which shall  
19 be broadcast between the hours of  
20 6:00 p.m. and midnight;

21 “(VI) such low power station in-  
22 cludes as part of the common local  
23 programming broadcast under sub-  
24 clause (V) a substantial amount of  
25 particularized local content;

1                         “(VII) such low power station  
2                         maintains a broadcast studio in the  
3                         station’s community of license;

4                         “(VIII) such low power station  
5                         files with the Commission a quarterly  
6                         disclosure of all programming broad-  
7                         cast under subclause (V) during the  
8                         period covered by the disclosure,  
9                         which—

10                         “(aa) shall include a sepa-  
11                         rate list of programming included  
12                         under subclause (VI) with a de-  
13                         tailed explanation of how pro-  
14                         gramming satisfies the require-  
15                         ments of subclause (VI); and

16                         “(bb) the Commission shall  
17                         make publicly available; and

18                         “(IX) when developing the pro-  
19                         gramming described in subclauses (V)  
20                         and (VI), or any public service an-  
21                         nouncement broadcast on such low  
22                         power station, such low power station  
23                         consults with community leaders and  
24                         members of the general public in the  
25                         market served by the station.

1                         “(iii) PETITION AND DETERMINA-  
2                         TION.—Not later than 90 days after a tele-  
3                         vision broadcast station submits to the  
4                         Commission a petition for a determination  
5                         that such station is a qualified low power  
6                         station under this subparagraph, the Com-  
7                         mission shall—

8                             “(I) if the Commission finds that  
9                         the requirements of clause (ii) are met  
10                         with respect to such station, grant  
11                         such petition; or

12                         “(II) if the Commission finds  
13                         that the requirements of clause (ii)  
14                         are not met with respect to such sta-  
15                         tion, deny such petition.

16                         “(iv) ANNUAL CERTIFICATION.—

17                         “(I) IN GENERAL.—Beginning on  
18                         the date that is 1 year after the date  
19                         on which a qualified low power station  
20                         under this subparagraph is first car-  
21                         ried on a cable system under sub-  
22                         section (c)(2), and annually there-  
23                         after, such station shall submit to the  
24                         Commission a certification that—

1                         “(aa) the requirements of  
2                         clause (ii) are met with respect to  
3                         such station; and

4                         “(bb) such station commits  
5                         to the Commission that the re-  
6                         quirements of clause (ii) will con-  
7                         tinue to be met with respect to  
8                         such station during the 1-year  
9                         period beginning on the date of  
10                         the certification.

11                         “(II) FAILURE TO CERTIFY.—If  
12                         a qualified low power station under  
13                         this subparagraph fails to submit a  
14                         certification as required by subclause  
15                         (I), the Commission may revoke the  
16                         determination that such station is a  
17                         qualified low power station under this  
18                         subparagraph.

19                         “(III) SCHEDULE AND ADMINIS-  
20                         TRATION.—Not later than 30 days  
21                         after the date of the enactment of this  
22                         subparagraph, the Commission shall  
23                         by order establish the schedule and  
24                         administration of the schedule for and  
25                         other requirements relating to the ad-

1 ministration of the certifications re-  
2 quired by this clause.

3 “(v) GROUNDS FOR REVOCATION OF  
4 DETERMINATION.—The Commission may  
5 not revoke a determination that a tele-  
6 vision broadcast station is a qualified low  
7 power station under this subparagraph ex-  
8 cept—

9 “(I) as provided in clause  
10 (iv)(II); or

11 “(II) if the requirements of  
12 clause (ii) are no longer met with re-  
13 spect to such station.”.

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